

Senate Bill 653

By: Senators Reed of the 35th, Brown of the 26th and Thompson of the 5th

A BILL TO BE ENTITLED
AN ACT

To amend Title 34 of the Official Code of Georgia Annotated, relating to labor and industrial relations, so as to provide a short title; to provide legislative findings; to define certain terms; to provide that no person shall be employed in this state unless he or she provides proper identification; to provide that it shall be unlawful for an employer to employ any person unless he or she provides proper identification; to provide for records; to provide for penalties; to provide for an Unlawful Employment Practices Division of the Georgia Bureau of Investigation; to provide for operations and investigations; to provide for public records; to provide for protection for persons making certain disclosures; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Title 34 of the Official Code of Georgia Annotated, relating to labor and industrial relations, is amended by inserting at the end thereof a new chapter to read as follows:

"CHAPTER 16

34-16-1.

This chapter shall be known and may be cited as the 'Georgia Homeland Protection Act.'

34-16-2.

The General Assembly finds that acts and omissions of state and federal governments operate as an open invitation to illegal aliens to come into our state, and it is not only illogical but also inhumane to treat our invited guest workers as less than human. Intentionally lax enforcement of immigration laws by the federal government, the large unfilled job market in Georgia, and the impunity with which Georgia employers are able

1 to exploit the pool of undocumented workers act as enticements for illegal aliens in search
2 of work to come to our state. Rather than punish the workers we as a society invite into our
3 midst to fill our labor needs and lower our cost of goods and services, we should first
4 withdraw that invitation, beginning with removing the job market which acts as the
5 enticement for their presence here. It is the intention of the General Assembly in enacting
6 this chapter to ensure that every worker in this state is a citizen of the United States or is
7 in this country legally.

8 34-16-3.

9 (a) As used in this chapter, the term:

10 (1) 'Employer' means any person, corporation, or other legal entity which fills 20 or more
11 employment positions for at least 20 days in a calendar month.

12 (2) 'Proper identification' means:

13 (A) A Georgia driver's license properly issued by the appropriate state agency;

14 (B) A valid identification card issued by a branch, department, agency, or entity of the
15 State of Georgia, any other state, or the United States authorized by law to issue
16 personal identification;

17 (C) A valid United States passport;

18 (D) A valid employee identification card containing a photograph of the cardholder and
19 issued by any branch, department, agency, or entity of the United States government,
20 this state, or any county, municipality, board, authority, or other entity of this state;

21 (D) A valid United States military identification card, provided that such identification
22 card contains a photograph of the cardholder;

23 (E) A valid tribal identification card containing a photograph of the cardholder;

24 (F) An official document issued by the United States government verifying the bearer's
25 lawful presence in this county and his or her legal authorization to be employed here
26 provided that such identification card contains a photograph of the cardholder;

27 (G) A valid social security card;

28 (H) A valid birth certificate with a raised seal from the state of issuance; or

29 (I) A valid voter registration card.

30 (b) It shall be unlawful for an employee to provide false or fraudulent proper identification
31 documents. A first offense shall be punishable as a misdemeanor. A second and each
32 subsequent offense shall be punishable by imprisonment of not more than five years or a
33 fine not to exceed \$250,000.00 or both.

34 34-16-4.

1 (a) No person may seek employment in this state unless he or she has in his or her
2 possession and presents to the employer proper identification.

3 (b) It shall be unlawful for an employer to employ any person in this state unless such
4 person provides proper identification showing such person to be a citizen of this country
5 or in this country legally. Each employer shall inspect and photocopy the proper
6 identification provided by each employee. The employer shall maintain such photocopy
7 of the employee's proper identification on record, indicating which the days the person
8 worked, along with the employment application and all documents related to the
9 employment verification process for at least three years.

10 (c) If any person contracts with another person or company which employs persons, such
11 employer shall demand and maintain on record such information verified by such
12 contractor.

13 34-16-5.

14 (a) An employer who violates the provisions of this chapter shall be subject to a fine of
15 \$12,800.00 per violation for a first prosecution and \$25,600.00 per violation for a second
16 and each subsequent prosecution. For purposes of this Code section, the number of
17 violations shall be calculated as the product of each person employed in violation of this
18 chapter multiplied by the number of days each such person was so employed.

19 (b) An employer may rely on a facially valid proper identification and shall not be held
20 responsible for forged documents unless he or she knew or should have known, in the
21 exercise of due care, that such documents were forged.

22 34-16-6.

23 Not later than December 31, 2006, the board of public safety shall establish within the
24 Georgia Bureau of Investigation an Unlawful Employment Practices Division. Such
25 division shall have the duty of enforcing the provisions of this chapter and investigating
26 employers in this state to ensure their hiring practices comply with state and federal law
27 with regard to the employment of persons who are not United States citizens. The division
28 shall provide a toll-free telephone number for the reporting of suspected violations of
29 employment practices and shall advertise such number throughout the state. Each employer
30 in this state shall post such number in a prominent place on the work site. Such telephone
31 service shall be staffed by division employees located in this state and shall function during
32 normal business hours. The division shall be staffed with sufficient agents to conduct
33 independent investigations and to investigate reports of violations of hiring practices and
34 shall make every effort to prosecute offending employers. The director of the Georgia

Bureau of Investigation shall provide a detailed report to the General Assembly on December 31 of each year stating the number of complaints received during the previous 12 months and the bureau's actions taken on such complaints. The bureau shall maintain a written record of all complaints received and the disposition of such actions for at least ten years. Such records shall be subject to the provisions of Article 4 of Chapter 18 of Title 50, relating to the inspection of public records.

34-16-7.

(a)(1) No employer shall make, adopt, or enforce any policy or practice preventing an employee from disclosing a violation of or noncompliance with this chapter to a government agency.

(2) No employer shall retaliate against an employee for disclosing a violation of or noncompliance with this chapter to a government agency, unless the disclosure was made with knowledge that the disclosure was false or with reckless disregard for its truth or falsity.

(3) No employer shall retaliate against an employee for objecting to, or refusing to participate in, any activity, policy, or practice of the employer that the employee has reasonable cause to believe is in violation of or noncompliance with this chapter.

(b)(1) An employee who has been the object of retaliation in violation of this Code section may institute a civil action in superior court for relief as set forth in paragraph (2) of this subsection within one year after discovering the retaliation or within three years after the retaliation, whichever is earlier.

(2) In any action brought pursuant to this subsection, the court may order any or all of the following relief:

(A) An injunction restraining continued violation of this Code section;

(B) Reinstatement of the employee to the same position held before the retaliation or to an equivalent position;

(C) Reinstatement of full fringe benefits and seniority rights;

(D) Compensation for lost wages, benefits, and other remuneration; and

(E) Any other compensatory damages allowable at law.

(c) A court may award reasonable attorney's fees, court costs, and expenses to a prevailing employee."

SECTION 2.

All laws and parts of laws in conflict with this Act are repealed.